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OFFICE OF PETITIONS

In re Patent Number 7,178,235 :
Issued February 20, 2007 :
David R. ROLSTON et al : DECISION ON PETITION
Application No. 10/725,566 : UNDER 37 CFR 1.78(a)(3)
Filed: December 3, 2003 :
Attorney Docket No. 16005-3US-1 AD/ad :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 21, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

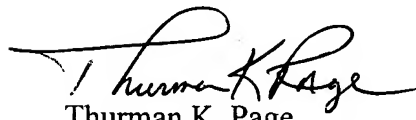
The petition does not comply with item (1).

First, 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the

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Any questions concerning this matter may be directed to the undersigned at (571) 272-0602.


Thurman K. Page
Petitions Examiner
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